

## PMFermiCOLPEm Resource

---

**From:** Lemont, Stephen  
**Sent:** Wednesday, September 09, 2009 12:21 PM  
**To:** Randall D Westmoreland  
**Cc:** LaGory, Kirk E.; Hayse, John; FermiCOL Resource  
**Subject:** Response to Detroit Edison Question on Fermi 3 RAI GE4-1 (Environmental Protection Plan)  
**Attachments:** EPP template.pdf

Randy,

During a phone conversation on September 3, 2009, you asked me the status of NRC's template for the Environmental Protection Plan (EPP) and, based on that status, how Detroit Edison should proceed with responding to RAI GE4-1 which requested the draft EPP for Fermi 3.

After discussing the matter internally, I learned the following:

- The EPP template was issued by NRC in November 2008. I have attached it for your convenience. It is not known at this time whether NRC will revise this template.
- The industry submitted a comment letter on the draft template, but NRC has not yet responded to it.
- **Applicants should go ahead now and prepare their EPPs using the attached draft template.**

Based on this information, with regard to RAI GE4-1 it is requested that Detroit Edison follow the instructions in the third (**bolded**) bullet above.

Please contact me if you have any questions or need additional information.

Thanks,  
Steve

*Stephen Lemont, Ph.D.*

Environmental Project Manager  
United States Nuclear Regulatory Commission  
Office of New Reactors  
Mail Stop: T-7E30  
Washington, DC 20555-0001  
Telephone: 301-415-5163  
Fax: 301-415-5397  
Email: [Stephen.Lemont@nrc.gov](mailto:Stephen.Lemont@nrc.gov)

**Hearing Identifier:** Fermi\_COL\_Public  
**Email Number:** 474

**Mail Envelope Properties** (1FA53ADF29758448974A8AC1118E627EB5E41A942D)

**Subject:** Response to Detroit Edison Question on Fermi 3 RAI GE4-1 (Environmental Protection Plan)  
**Sent Date:** 9/9/2009 12:20:45 PM  
**Received Date:** 9/9/2009 12:20:46 PM  
**From:** Lemont, Stephen

**Created By:** Stephen.Lemont@nrc.gov

**Recipients:**

"LaGory, Kirk E." <lagory@anl.gov>  
Tracking Status: None  
"Hayse, John" <hayse@anl.gov>  
Tracking Status: None  
"FermiCOL Resource" <FermiCOL.Resource@nrc.gov>  
Tracking Status: None  
"Randall D Westmoreland" <westmorelandr@dteenergy.com>  
Tracking Status: None

**Post Office:** HQCLSTR01.nrc.gov

<b>Files</b>	<b>Size</b>	<b>Date &amp; Time</b>
MESSAGE	1298	9/9/2009 12:20:46 PM
EPP template.pdf	94178	

**Options**

**Priority:** Standard  
**Return Notification:** No  
**Reply Requested:** No  
**Sensitivity:** Normal  
**Expiration Date:**  
**Recipients Received:**

November 20, 2008

MEMORANDUM TO: Scott C. Flanders, Director  
Division of Site and Environmental Reviews  
Office of New Reactors

FROM: H. Brent Clayton, Chief */RA/*  
Environmental Technical Support Branch  
Division of Site and Environmental Reviews  
Office of New Reactors

SUBJECT: ENVIRONMENTAL PROTECTION PLAN TEMPLATE

This memo transmits the Environmental Protection Plan (EPP) template, which was developed jointly by staff from the Office of New Reactors and the Office of the General Counsel. The EPP is a requirement for combined license applications and would also be part of any combined license.

The EPP template is enclosed and will be a publicly available document.

Enclosure:  
As stated

CONTACT: Harriet Nash, NRO/DSER/RENV  
301-415-4100

November 20, 2008

MEMORANDUM TO: Scott C. Flanders, Director  
Division of Site and Environmental Reviews  
Office of New Reactors

FROM: H. Brent Clayton, Chief  
Environmental Technical Support Branch  
Division of Site and Environmental Reviews  
Office of New Reactors

SUBJECT: ENVIRONMENTAL PROTECTION PLAN TEMPLATE

This memo transmits the Environmental Protection Plan (EPP) template, which was developed jointly by staff from the Office of New Reactors and the Office of the General Counsel. The EPP is a requirement for combined license applications and would also be part of any combined license.

The EPP template is enclosed and will be a publicly available document.

Enclosure:  
As stated

CONTACT: Harriet Nash, NRO/DSER/RENV  
301-415-4100

DISTRIBUTION:  
PUBLIC RidsNroDserRap1 RidsNroDserRap2  
RidsNroDserRenv JBiggins

**ADAMS ACCESSION NUMBER: ML083180815**

OFFICE	PM:RENV:DSER:NRO	PM:RAP2:DSER:NRO	PM:RAP2:DSER:NRO	OGC	BC:RENV:DSER:NRO
NAME	HNash/sek1	AKugler	ARedden	JBiggins	HBClayton
DATE	11/13/08	11/14/08	11/14/08	11/19/08	11/20/08

**OFFICIAL RECORD COPY**

APPENDIX B  
TO FACILITY OPERATING LICENSE NO. [XXX-XX]  
[PLANT NAME] - UNIT NO. [X]  
[LICENSEE NAME]  
DOCKET NO. [XX-XXX]  
ENVIRONMENTAL PROTECTION PLAN  
(NONRADIOLOGICAL)  
[DATE]

TABLE OF CONTENTS

- 1.0 Objective of the Environmental Protection Plan
- 2.0 Environmental Protection Issues
  - 2.1 Aquatic Resources Issues
  - 2.2 Terrestrial Resources Issues
  - 2.3 Endangered Species Act of 1973
  - 2.4 Other Environmental Issues
- 3.0 Consistency Requirements
- 4.0 Administrative Procedures
  - 4.1 Plant Reporting Requirements: Non-routine Reports
  - 4.2 Review and Audit
  - 4.3 Records Retention
  - 4.4 Changes in Environmental Protection Plan

## 1.0 Objective of the Environmental Protection Plan

The Environmental Protection Plan (EPP) objective is to ensure compliance with Biological Opinions issued pursuant to the Endangered Species Act of 1973, as amended (ESA), and to ensure that the Commission is kept informed of other environmental matters. The EPP is intended to be consistent with Federal, state, and local requirements for environmental protection.

## 2.0 Environmental Protection Issues

In the Final Environmental Impact Statement (FEIS) dated [xxxxx] the staff considered the environmental impacts associated with the construction and operation of [plant name] Unit No. [x]. This EPP applies to the licensee's actions affecting the environmental resources evaluated in the FEIS and the licensee's actions that may affect any newly discovered environmental resources.

### 2.1 Aquatic Resources Issues

Federal agencies other than the U.S. Nuclear Regulatory Commission (NRC), such as the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (ACE), have jurisdiction to regulate aquatic resources under the Federal Water Pollution Control Act (Clean Water Act or CWA) and the Rivers and Harbors Appropriation Act of 1899 (RHA). Water quality environmental concerns identified in the FEIS including effluent limitations, monitoring requirements, and mitigation measures are regulated under the licensee's CWA permits, such as National Pollutant Discharge Elimination System (NPDES) and Section 404 permits, and RHA Section 10 permit. Nothing within this EPP shall be construed to place additional requirements on the regulation of aquatic resources except the imposition of the requirements in a Biological Opinion under the ESA (see section 2.3). The licensee is required to inform the NRC of events or situations concerning aquatic resources pursuant to 10 CFR 50.72(b)(2)(xi).

### 2.2 Terrestrial Resources Issues

Several statutes govern the regulation of terrestrial resources. For example, the U.S. Fish and Wildlife Service (FWS) regulates matters involving migratory birds and their nests in accordance with the Migratory Bird Treaty Act. Activities affecting migratory birds or their nests may require permits under the Migratory Bird Treaty Act. The FWS also regulates matters involving the protection and taking of bald and golden eagles in accordance with the Bald and Golden Eagle Protection Acts. The licensee shall inform NRC of any events or situations concerning terrestrial resources pursuant to 10 CFR 50.72(b)(2)(xi).

### 2.3 Endangered Species Act of 1973

The NRC may be required to protect some aquatic resources and terrestrial resources in accordance with the ESA. If a Biological Opinion is issued to the NRC in accordance with ESA Section 7 prior to the issuance of the combined license, the licensee shall comply with the Terms and Conditions set forth in the Incidental Take Statement of the Biological Opinion. If any Federally listed species or critical habitat occurs in an area affected by construction or operation of the plant that was not previously identified as occurring in such areas, including species and critical habitat that were not previously Federally listed, the licensee shall inform the NRC within four hours of discovery. Similarly, the licensee shall inform the NRC within four hours of discovery of any take, as defined in the ESA, of a Federally listed species or destruction or adverse modification of critical habitat. These notifications shall be made to the NRC Operations Center via the Emergency Notification System. The licensee shall provide any necessary information to the NRC if the NRC initiates consultation under the ESA.

Unusual Event - The licensee shall inform the NRC of any onsite mortality, injury, or unusual occurrence of any species protected by the ESA within four hours of discovery, followed by a written report in accordance with Section 4.1. Such incidents shall be reported regardless of causal relation to plant construction or operation.

### 2.4 Other Environmental Issues

[This is a placeholder for other site-specific issues or conditions including monitoring authorized by statute. Environmental conditions will be derived from information contained in the applicant's environmental report as analyzed and evaluated in the NRC record of decision. The Commission may also include additional environmental conditions as appropriate.]

### 3.0 Consistency Requirements

The licensee shall notify the NRC of proposed changes to permits or certifications concerning aquatic or terrestrial resources [substitute a specific list of permits and certifications if available] by providing the NRC with a copy of the proposed change at the same time it is submitted to the permitting agency. The licensee shall provide the NRC with a copy of the application for renewal of permits or certifications at the same time the application is submitted to the permitting agency.

Changes to or renewals of permits or certifications shall be reported to the NRC within 30 days following the later of the date the change or renewal is approved or the date the change becomes effective. If a permit or certification, in part or in its entirety, is appealed and stayed, the NRC shall be notified within 30 days following the date the stay is granted.

## 4.0 Administrative Procedures

### 4.1 Plant Reporting Requirements: Non-routine Reports

A written report shall be submitted to the NRC within 30 days of occurrence of any unusual event described in Section 2.3 [add Section 2.4 if applicable] of this EPP. The report shall (a) describe, analyze, and evaluate the event, including extent and magnitude of the impact and plant operating characteristics at the time of the event, (b) describe the probable cause of the event, (c) indicate the action taken to correct the reported event, (d) indicate the corrective action taken to preclude repetition of the event and to prevent similar occurrences involving similar components or systems, and (e) indicate the agencies notified and their preliminary responses.

[Events reportable under this subsection, which also require reports to other Federal, state, or local agencies, shall be reported in accordance with those reporting requirements in lieu of the requirements of this subsection. The NRC shall be provided a copy of such report at the same time it is submitted to the other agency. (Delete this paragraph if this section only applies to ESA reporting under Section 2.3)]

### 4.2 Review and Audit

The licensee shall provide for review and audit of compliance with Section 2.3 of the EPP. The audits shall be conducted independently of the individual or groups responsible for performing the specific activity. A description of the organizational structure utilized to achieve the independent review and audit function and results of the audit activities shall be maintained and made available for inspection.

### 4.3 Records Retention

Records required by this EPP shall be made and retained in a manner convenient for review and inspection. These records shall be made available to the NRC on request. The records, data, and logs relating to this EPP shall be retained for five years or, where applicable, in accordance with the requirements of other agencies.

### 4.4 Changes in Environmental Protection Plan

A request for a change in the EPP shall include an assessment of the environmental impact of the proposed change and a supporting justification. Implementation of such changes in the EPP shall not commence prior to NRC approval of the proposed changes in the form of a license amendment incorporating the appropriate revision to the EPP.

The licensee shall request a license amendment to incorporate the requirements of any Terms and Conditions set forth in the Incidental Take Statement of Biological Opinions issued subsequent to the effective date of this EPP.